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10 **UNITED STATES DISTRICT COURT**
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
12

13 LEAH FLORES, an individual,
14 Plaintiff,
15 v.

16 JD E-COMMERCE AMERICA
17 LIMITED, a Delaware business entity,
JD.COM AMERICAN
18 TECHNOLOGIES CORPORATION, a
19 Delaware business entity, JINGDONG
E-COMMERCE (TRADE) HONG
20 KONG CORPORATION LIMITED, a
21 Hong Kong Business Entity,
WALMART, INC., a Delaware business
22 entity; and DOES 1 through 10,
23 inclusive,

24 Defendants.
25

Case No.:

COMPLAINT FOR:

1. **COPYRIGHT
INFRINGEMENT—Count I**
2. **VICARIOUS COPYRIGHT
INFRINGEMENT—Count I**
3. **CONTRIBUTORY COPYRIGHT
INFRINGEMENT—Count I**
4. **COPYRIGHT
INFRINGEMENT—Count II**
5. **VICARIOUS COPYRIGHT
INFRINGEMENT—Count II**
6. **CONTRIBUTORY COPYRIGHT
INFRINGEMENT—Count II**

JURY TRIAL DEMANDED

1 Plaintiff LEAH FLORES, (“Plaintiff”) by and through her undersigned
 2 counsel, hereby complains against defendants JD E-COMMERCE AMERICA
 3 LIMITED, a Delaware business entity (“Joybuy America”), JD.COM AMERICAN
 4 TECHNOLOGIES CORPORATION, a Delaware business entity (“Joybuy
 5 Tech”), JINGDONG E-COMMERCE (TRADE) HONG KONG CORPORATION
 6 LIMITED, a Hong Kong Business Entity (“Joybuy”) (collectively the “Joybuy
 7 Defendants”), WALMART, INC., a Delaware business entity (“Walmart”); and
 8 DOES 1 through 10, inclusive (collectively, “Defendants”), and alleges as follows:

9 **NATURE OF THE ACTION**

10 1. Plaintiff creates and obtains rights to unique two-dimensional non-
 11 functional artistic designs and photographs for display as visual art and use on
 12 textiles and accessories. Physical uses of these designs are transacted primarily in
 13 and through the apparel and home goods industries. Plaintiff owns these artworks
 14 in exclusivity and exploits these designs for profit by selling products bearing the
 15 designs or entering into licensing agreements for sale or display by third parties.
 16 Defendants have knowingly and intentionally used such artworks in the production
 17 and/or sale of unauthorized goods which infringe upon Plaintiff’s copyrights in at
 18 least two different works. What’s more, they have done so across a variety of
 19 product categories which directly compete with Plaintiff and Plaintiff’s authorized
 20 third-party partners.

21 **JURISDICTION AND VENUE**

22 2. The Court has original subject matter jurisdiction over Plaintiff’s
 23 federal claims arising under the Copyright Act of 1976, Title 17 U.S.C., § 101 et
 24 seq. under 28 U.S.C. § 1331, 1338 (a) and (b).

25 3. The Court has ancillary subject matter jurisdiction over Plaintiff’s
 26 state law claims under principles of pendent jurisdiction and pursuant to 28 U.S.C.
 27 § 1367(a).
 28

1 4. This Court has personal jurisdiction over the Defendants because the
2 events or omissions giving rise to the claim occurred, the tortious acts occurred,
3 and a substantial part of the injury took place and continues to take place, in this
4 judicial district and/or each of the Defendants can be found in this judicial district.

5 5. Venue is proper in the United States District Court for the Central
6 District of California pursuant to 28 U.S.C §§ 1391(b), 1391(c), and 1400(a) on
7 information and belief that: (a) this is a judicial district in which a substantial part
8 of the events giving rise to the claims occurred the tortious acts occurred, and a
9 substantial part of the injury took place and continues to take place; and (b)
10 Defendants are subject to the Court's personal jurisdiction with respect to this
11 action.

12 6. On information and belief, Defendants Joybuy America and Joybuy
13 Tech are corporate subsidiaries of Joybuy, a Chinese e-commerce business listed
14 on the NASDAQ stock exchange in New York, New York under the ticker JD.
15 Joybuy has significant ties to this jurisdiction, including several highly publicized
16 deals with American companies and attempts to further expand their business
17 operations in the U.S.A.

18 7. On information and belief Defendants Joybuy America and Joybuy
19 Tech are fully or substantially owned and controlled by Defendant Joybuy, which
20 has intentionally availed itself of this court's jurisdiction through the course of its
21 business operations.

22 8. On information and belief the Joybuy Defendants sell and ship
23 products via their various branded websites nationwide throughout the U.S.A.,
24 including to the Central District of California.

25 9. Indeed, the Joybuy Defendants have previously and continuously
26 availed themselves of this jurisdiction, with the website *joybuy-us.com*, explicitly
27 affiliated with Joybuy America and featuring similar branding and products as the
28

1 other Joybuy Defendants, describing their business as “headquartered in Irvine,
2 California, with distribution facilities located throughout the United States.”

3 10. Additionally, on information and belief, Joybuy has additional fully
4 or substantially owned and controlled corporate subsidiaries operating out of this
5 jurisdiction, including Jingdong Logistics United States Company, a Delaware
6 business entity with its principal place of business in Industry, California.

7 11. Notably, Joybuy America, Joybuy Tech, and Jingdong Logistics
8 United States Company all list the exact same CEO, Secretary, CFO, and agent for
9 service of process on their filings with the California Secretary of State. This
10 individual, Nani Wang, is listed as located in California in all such filings.

11 12. As to Defendant Walmart, they have significant physical and
12 commercial ties to this jurisdiction through their various retail stores located in the
13 Central District of California.

14 13. Additionally, on information and belief Defendant Walmart also sells
15 and ships products via the affiliated website *Walmart.com* nationwide throughout
16 the U.S.A., including to the Central District of California.

17 **THE PARTIES**

18 14. Plaintiff is an individual residing in the State of Oregon.

19 15. Plaintiff is informed and believes, and thereon alleges, that Defendant
20 Joybuy America, is, and at all times relevant was, a Delaware business entity with
21 its principal place of business located in Irvine, California.

22 16. Plaintiff is informed and believes, and thereon alleges, that Joybuy
23 America advertises, distributes, and sells products under various brand names,
24 including “Joybuy Express,” “Joybuy America,” and “Joybuy US” to consumers
25 throughout the United States, including consumers within this Court’s jurisdiction.

26 17. Additionally, Plaintiff is informed and believes and thereon alleges
27 that Defendants Joybuy America and Joybuy Tech are corporate subsidiaries of
28 Joybuy, a Chinese e-commerce business listed on the NASDAQ stock exchange in

1 New York, New York under the ticker JD.

2 18. Plaintiff is informed and believes and thereon alleges that Defendants
3 Joybuy America and Joybuy Tech are fully or substantially owned and controlled
4 by Defendant Joybuy.

5 19. Plaintiff is informed and believes, and thereon alleges, that Joybuy
6 advertises, distributes, and sells products under its own brand names, including
7 “Joybuy,” to consumers throughout the United States, including consumers within
8 this Court’s jurisdiction.

9 20. Additionally, Plaintiff is informed and believes, and thereon alleges
10 that Joybuy has additional corporate subsidiaries operating within this court’s
11 jurisdiction.

12 21. Defendant Walmart is Joybuy’s single largest shareholder; this
13 ownership stake has been widely covered in financial and business media.

14 22. Defendants DOES 1 through 10 are individuals and/or entities whose
15 true names and capacities are presently unknown to Plaintiff. Plaintiff is informed
16 and believes, and thereon alleges, that, at all times herein mentioned, each of the
17 fictitiously named defendants was the agent, servant, and/or employee of her or her
18 co-defendants and, in doing the things herein mentioned, was acting within the
19 scope of her or her authority as such agent, servant, and/or employee, and with the
20 permission and consent of her or her co-defendants, and that each of said
21 fictitiously named defendants is, in some manner, liable or responsible to Plaintiff
22 based upon the facts hereinafter alleged and thereby proximately caused injuries
23 and damages to Plaintiff as more fully alleged herein. Accordingly, Plaintiff sues
24 said defendants by said fictitious names. At such time as said defendants’ true
25 names and capacities become known to Plaintiff, Plaintiff will seek leave to amend
26 this Complaint to insert said true names and capacities of such individuals and/or
27 entities.

28 **ALTER EGO LIABILITY AS TO THE JOYBUY DEFENDANTS AND**

DOES 1-10

23. Plaintiff is informed and believes, and thereon alleges, that at all times relevant to this Complaint, there existed a unity of interest and ownership between Defendants Joybuy America, Joybuy Tech, and Does 1-10, on the one hand, and Defendant Joybuy.

24. Joybuy America and Joybuy Tech are the alter ego of Joybuy in that Joybuy America and Joybuy Tech are, and at all relevant times were, mere shells, instrumentalities, and conduits through which Joybuy carried on business in the name of Joybuy America and Joybuy Tech while exercising complete control and dominance over Joybuy America and Joybuy Tech, including their business and assets, to such an extent that any individuality or separateness between Joybuy America, Joybuy Tech, and Joybuy did not exist.

25. Joybuy America and Joybuy Tech are, and at all times herein mentioned were, so inadequately capitalized that their capitalizations were illusory and trifling.

26. At all times relevant to this Complaint, the Joybuy Defendants shared identical or near identical branding, websites, and email addresses. In fact, Joybuy America and Joybuy use the *exact same* branding and logo on *Walmart.com*.

27. At all times relevant to this Complaint, the Joybuy Defendants shared employees.

28. At all times relevant to this Complaint, Joybuy America and Joybuy Tech both operated in whole or part out of the same offices located at 675 E Middlefield Rd, Mountain View, California 94043.

29. At all times relevant to this Complaint, the Joybuy America and Joybuy Tech listed the *exact same individual*, Nani Wang, as CEO, CFO, and Secretary in their filings with the California Secretary of State. Ms. Wang was listed as located at the aforementioned Mountain View address in filings for both of the aforementioned Defendants.

1 30. At all times relevant to this complaint, Joybuy America and Joybuy
2 Tech shared the same agent for service of process.

3 31. The shared office space, employees, executives, and branding
4 between the aforementioned entities indicate a systematic and persistent failure to
5 maintain an arms' length relationship between the Joybuy Defendants.

6 32. Adherence to the fiction of the separate existence of the Joybuy
7 Defendants would permit an abuse of the corporate privilege and would sanction
8 fraud, promote injustice, and otherwise aid in the commission of unlawful conduct.
9 This is true because, as Plaintiffs are informed and believes, at all relevant times,
10 these Defendants were commingling assets in a manner that allowed them to utilize
11 and freely transfer those assets amongst themselves. The commingling of assets
12 and unlawful business conduct by the Joybuy Defendants were intended, among
13 other things, to allow Joybuy to avoid liability to Plaintiff for valid obligations.

14 33. Additionally, Plaintiff is informed and believes, and thereon alleges,
15 that at all times relevant to this Complaint, that Joybuy had additional alter ego
16 corporate subsidiaries located within this Jurisdiction whose identities and potential
17 roles in the Joybuy Defendants' infringement of her copyrights is not yet known.

18 34. This includes, at minimum, Jingdong Logistics United States
19 Company, a Delaware business entity with its principal place of business in
20 Industry, California. Like Joybuy America and Joybuy Tech, Jingdong Logistics
21 United States Company lists Nani Wang as its CEO, CFO, and Secretary, and lists
22 her as located at 675 E Middlefield Rd, Mountain View, California 94043.
23 Additionally, Jingdong Logistics United States Company lists the same agent for
24 service of process as Joybuy America and Joybuy Tech.

25 35. In the event that Plaintiff discovers the identities, actions, and roles of
26 these believed additional alter ego corporations, she will amend this Complaint to
27 include them in this lawsuit.

28 **PLAINTIFF'S COPYRIGHT**

1 36. Plaintiff is a professional artist, photographer, and designer who
2 regularly sells, licenses, or otherwise exploits her artwork to clients and third-party
3 retailers.

4 37. Plaintiff has additionally previously created artwork for and/or been
5 featured by various high profile national brands and publications such as Elle, Free
6 People, and Marie Claire.

7 38. Plaintiff's artworks are distinctive, stylized, and recognizable relative
8 to other artists' works.

9 39. Plaintiff has expended considerable resources and efforts in creating,
10 developing, and marketing her artworks, which are essential to her business.

11 40. Due to recurrent issues with piracy and infringement of her works,
12 Plaintiff regularly registers her works with the US Copyright Office.

13 41. Plaintiff owns, and had owned prior to the infringing acts complained
14 of herein, all copyrights to a two-dimensional artwork designated as "Pacific
15 Ocean" (the "Pacific Ocean Artwork").

16 42. The Pacific Ocean Artwork was first published in November of 2014
17 and is registered with the United States Copyright Office as Registration No.
18 VA0002247113.

19 43. In or about November 2014, Plaintiff began advertising, displaying,
20 and selling the Pacific Ocean Artwork in commerce throughout the United States
21 including, but not limited to Plaintiff's website, *leahflores.com*, on her social media
22 pages, and through authorized third-party retailers. The Pacific Ocean Artwork
23 was widely disseminated through the website.

24 44. Plaintiff also owns, and had owned prior to the infringing acts
25 complained of herein, all copyrights to a two-dimensional artwork designated as
26 "Happy Place" (the "Happy Place Artwork"):

27 45. The Happy Place Artwork was first published in September 2013 and
28 is registered with the United States Copyright Office as Registration No.

1 VA0002108020. It is also the subject of an additional supplemental registration
2 with the United States Copyright Office, Registration No. VA0001434052,

3 46. On or about November 20, 2013, Plaintiff began advertising,
4 displaying, and selling the Happy Place Artwork in commerce throughout the
5 United States including, but not limited to Plaintiff's website, *leahflores.com*, on
6 her social media pages, and through authorized third-party retailers. The Happy
7 Place Artwork was widely disseminated through the website.

8 47. Collectively, Plaintiff's Pacific Ocean Artwork and Happy Place
9 Artwork will be referred to as the "Artworks".

10 **DEFENDANTS' INFRINGING CONDUCT**

11 48. Upon information and belief, the Joybuy Defendants are in the
12 business of commercially manufacturing, selling, distributing, and displaying a
13 variety of items via e-commerce channels, including home furnishing goods.

14 49. Upon information and belief, the Joybuy Defendants sell products
15 through both first party channels, such as their own websites, as well as through
16 third party e-commerce sites including *Walmart.com*.

17 50. In or around late 2021, Plaintiff discovered that the Joybuy
18 Defendants were selling goods on *Walmart.com* including, but not limited to,
19 tapestries which bore artwork identical or substantially similar to Plaintiff's Pacific
20 Ocean Artwork ("First Infringing Pacific Ocean Goods").

21 51. In total, Plaintiff discovered four different listings for such infringing
22 tapestries on *Walmart.com*. Although each listing was slightly different, each and
23 every tapestry in question was identified in their respective listings as being "Sold
24 and Shipped by JD Express – JD E Commerce America Limited."

25 52. Additionally, in or around late 2021, Plaintiff discovered that Joybuy
26 itself was also selling pillows on *Walmart.com* which bore artwork identical or
27 substantially similar to Plaintiff's Happy Place Artwork ("First Infringing Happy
28 Place Goods"). Such goods were identified in their listing as being "Sold and

1 Shipped by Joybuy – Jingdong E-Commerce (Trade) Hong Kong Corporation.”

2 53. Accordingly, in late 2021 Plaintiff, through her counsel, filed DMCA
3 take down notices with *Walmart.com* for all listings for the First Infringing Pacific
4 Ocean Goods and First Infringing Happy Place Goods.

5 54. In early January of 2022, Plaintiff, through her counsel, addressed a
6 letter to Joybuy America to inform them of the infringing nature of the First
7 Infringing Pacific Ocean Goods and the Infringing Happy Place Goods. Plaintiff
8 demanded, among other things, that Joybuy America and its affiliates, including
9 Joybuy, immediately cease and desist from using, copying, reproducing,
10 distributing, displaying, ordering, purchasing, manufacturing, or offering for sale
11 or advertising the Artworks in any way.

12 55. Plaintiff’s letter was delivered via FedEx to Joybuy America’s address
13 listed on both their website and their filings with the California Secretary of State.

14 56. Plaintiff also sent a copy of her letter to Joybuy America’s designated
15 contact email, service-us@jd.com.

16 57. Plaintiff received no response to her letter.

17 58. In or around February 2022, Plaintiff discovered that the Joybuy
18 Defendants were infringing her work once more, despite having been put on notice
19 by her DMCA takedown notice and her letter, selling a new pillow which bore
20 artwork identical or substantially similar to Plaintiff’s Happy Place Artwork
21 (“Second Infringing Happy Place Goods”).

22 59. This new listing was active well after the Joybuy Defendants were on
23 notice that Plaintiff owned the copyright in Happy Place, and that Joybuy had been
24 infringing upon it. This notice was first provided in or around October 2021 via her
25 DMCA takedown to Joybuy, as well as in January 2022 via her letter to the Joybuy
26 Defendants.

27 60. In response, in early March of 2022, Plaintiff, through her counsel,
28 sent a second letter to Joybuy America reiterating her demands, stated in her prior

1 letter, that the Joybuy Defendants immediately cease and desist from using,
 2 copying, reproducing, distributing, displaying, ordering, purchasing,
 3 manufacturing, or offering for sale or advertising the Artworks in any way.

4 61. Plaintiff's letter was once again delivered via FedEx to Joybuy
 5 America's address listed on both their website and their filings with the California
 6 Secretary of State.

7 62. Plaintiff once again also sent a copy of her letter to Joybuy America's
 8 designated contact email, service-us@jd.com.

9 63. Plaintiff once again received no response to her letter.

10 64. As of March 18, 2022, the Second Happy Place Infringing Goods are
 11 still available for sale on *Walmart.com*.

12 65. Additionally, in or around March 2022, Plaintiff discovered that there
 13 were at least four different additional active listings on *Walmart.com* for tapestries
 14 infringing upon Pacific Ocean ("Second Infringing Pacific Ocean Goods"). On
 15 information and belief, some or all of these listings were posted after the Joybuy
 16 Defendants were put on notice of the infringing nature of their conduct, and all
 17 remain active despite the Joybuy Defendants having been put on notice.

18 66. These listings include [https://www.walmart.com/ip/Seascape-Ocean-](https://www.walmart.com/ip/Seascape-Ocean-Waves-Tapestry-Print-Home-Decor-Wall-Hanging-Tapestry-Beach-Throw-Blanket-A3/939876055)
 19 [Waves-Tapestry-Print-Home-Decor-Wall-Hanging-Tapestry-Beach-Throw-](https://www.walmart.com/ip/Seascape-Ocean-Waves-Tapestry-Print-Home-Decor-Wall-Hanging-Tapestry-Beach-Throw-Blanket-A3/939876055)
 20 [Blanket-A3/939876055](https://www.walmart.com/ip/Seascape-Ocean-Waves-Tapestry-Print-Home-Decor-Wall-Hanging-Tapestry-Beach-Throw-Blanket-A3/939876055), [https://www.walmart.com/ip/Clearance-Seascape-Ocean-](https://www.walmart.com/ip/Clearance-Seascape-Ocean-Waves-Tapestry-Polyester-Fabric-Hippie-Bohemian-Print-Home-Decor-Wall-Hanging-Tapestry-Beach-Throw-Blanket-3/987274342)
 21 [Waves-Tapestry-Polyester-Fabric-Hippie-Bohemian-Print-Home-Decor-Wall-](https://www.walmart.com/ip/Clearance-Seascape-Ocean-Waves-Tapestry-Polyester-Fabric-Hippie-Bohemian-Print-Home-Decor-Wall-Hanging-Tapestry-Beach-Throw-Blanket-3/987274342)
 22 [Hanging-Tapestry-Beach-Throw-Blanket-3/987274342](https://www.walmart.com/ip/Clearance-Seascape-Ocean-Waves-Tapestry-Polyester-Fabric-Hippie-Bohemian-Print-Home-Decor-Wall-Hanging-Tapestry-Beach-Throw-Blanket-3/987274342),
 23 [https://www.walmart.com/ip/Abcelit-Seascape-Ocean-Waves-Tapestry-Polyester-](https://www.walmart.com/ip/Abcelit-Seascape-Ocean-Waves-Tapestry-Polyester-Fabric-Hippie-Bohemian-Print-Home-Decor-Wall-Hanging-Tapestry-Beach-Throw-Blanket/810799985)
 24 [Fabric-Hippie-Bohemian-Print-Home-Decor-Wall-Hanging-Tapestry-Beach-](https://www.walmart.com/ip/Abcelit-Seascape-Ocean-Waves-Tapestry-Polyester-Fabric-Hippie-Bohemian-Print-Home-Decor-Wall-Hanging-Tapestry-Beach-Throw-Blanket/810799985)
 25 [Throw-Blanket/810799985](https://www.walmart.com/ip/Abcelit-Seascape-Ocean-Waves-Tapestry-Polyester-Fabric-Hippie-Bohemian-Print-Home-Decor-Wall-Hanging-Tapestry-Beach-Throw-Blanket/810799985), and [https://www.walmart.com/ip/Promotion-](https://www.walmart.com/ip/Promotion-Clearance-Seascape-Ocean-Waves-Tapestry-Polyester-Fabric-Hippie-Bohemian-Print-Home-Decor-Wall-Hanging-Tapestry-Beach-Throw-Blanket/979143154)
 26 [Clearance-Seascape-Ocean-Waves-Tapestry-Polyester-Fabric-Hippie-Bohemian-](https://www.walmart.com/ip/Promotion-Clearance-Seascape-Ocean-Waves-Tapestry-Polyester-Fabric-Hippie-Bohemian-Print-Home-Decor-Wall-Hanging-Tapestry-Beach-Throw-Blanket/979143154)
 27 [Print-Home-Decor-Wall-Hanging-Tapestry-Beach-Throw-Blanket/979143154](https://www.walmart.com/ip/Promotion-Clearance-Seascape-Ocean-Waves-Tapestry-Polyester-Fabric-Hippie-Bohemian-Print-Home-Decor-Wall-Hanging-Tapestry-Beach-Throw-Blanket/979143154).

28 67. Each and every one of the aforementioned active infringing listings

1 state that they are “Sold and Shipped by JD Express – JD E Commerce America
2 Limited.”

3 68. As of March 18, 2022, each and every one of the aforementioned
4 active infringing listings remains accessible, allowing the Second Infringing
5 Pacific Ocean Goods to be purchased by consumers.

6 69. As of March 18, 2022, the listing for the Second Infringing Happy
7 Place Goods remains accessible, allowing the Second Infringing Pacific Ocean
8 Goods to be purchased by consumers.

9 70. Each and every one of the Second Infringing Pacific Ocean Goods and
10 Second Infringing Happy Place Goods have been available for sale well after the
11 Joybuy Defendants were placed on notice that they had previously infringed on the
12 respective related work.

13 71. Upon information and belief, the Joybuy Defendants have been
14 selling, marketing, and advertising the First Infringing Pacific Ocean Goods,
15 Second Infringing Pacific Ocean Goods, First Infringing Happy Place Goods, and
16 Second Infringing Happy Place Goods on websites including, but not limited to,
17 *www.Walmart.com*—a website owned and operated by Defendant Walmart.

18 72. Upon information and belief, the Joybuy Defendants have also been
19 selling, marketing, and advertising the First Infringing Pacific Ocean Goods,
20 Second Infringing Pacific Ocean Goods, First Infringing Happy Place Goods, and
21 Second Infringing Happy Place Goods on websites owned and operated by the
22 Joybuy Defendants.

23 73. The Joybuy Defendants had access to Plaintiff’s Pacific Ocean
24 Artwork and Happy Place Artwork through several websites, including through
25 *leahflores.com*. The fact they own multiple websites shows their ability to
26 effortlessly navigate the online space.

27 74. Collectively, the First Infringing Pacific Ocean Goods, Second
28 Infringing Pacific Ocean Goods, First Infringing Happy Place Goods, and Second

1 Infringing Happy Place Goods are the “Infringing Goods”.

2 75. Upon information and belief, Joybuy Defendants have
3 misappropriated the Artworks, and have unlawfully reproduced, imported,
4 distributed and/or sold the Infringing Goods online through websites such as
5 *www.Walmart.com*, *www.Joybuy.com*, *www.Joybuy-us.com* and to consumers
6 throughout the United States, including, but not limited to, within this judicial
7 district.

8 76. Upon information and belief, the U.S. Copyright Office lists no
9 designated agent under the Digital Millennium Copyright Act for either
10 *www.Joybuy.com* or *www.Joybuy-us.com*.

11 77. Upon information and belief, the Joybuy Defendants have, without
12 Plaintiff’s authorization, unlawfully reproduced, imported, distributed and/or sold
13 Infringing Goods in this judicial district that feature artworks that are identical or
14 substantially similar to the respective Artworks.

15 78. Upon information and belief, the Joybuy Defendants’ infringing use
16 of the Artworks are not limited to the Infringing Goods described above, and other
17 goods Defendants created, manufactured, caused to be manufactured, imported,
18 distributed, and/or sold may infringe Plaintiff’s copyright in the Artworks.

19 79. Upon information and belief, the Joybuy Defendants are, unlawfully
20 reproducing, importing, distributing and/or selling goods in this judicial district that
21 feature artworks that are identical or substantially similar to copyrighted works
22 belonging to other entities and/or individuals.

23 **WALMART’S INFRINGING CONDUCT**

24 80. Plaintiff hereby realleges and incorporates by reference herein each
25 and every allegation in the preceding paragraphs as though fully set forth herein.

26 81. Walmart operates and controls the e-commerce site *Walmart.com*, and
27 is in the business of commercially manufacturing, selling, distributing, and
28 displaying a variety of items via e-commerce and brick and mortar retail channels.

1 82. Defendant Walmart determines which vendors are allowed to sell on
2 *Walmart.com*, as well as what goods they are allowed to offer on its site.

3 83. Every listing on *Walmart.com* exists at the pleasure of defendant
4 Walmart.

5 84. Defendant Walmart has exhibited a consistent pattern of bad faith
6 conduct and willful blindness regarding infringement of Plaintiff's works by the
7 Joybuy Defendants and unknown does.

8 85. Despite having been put on notice of the Joybuy Defendants' pattern
9 of rampant infringement by Plaintiff's DMCA takedowns, Walmart nevertheless
10 permitted the Joybuy Defendants to remain active on its site.

11 86. Upon information and belief, Walmart took no action to limit the
12 Joybuy Defendants' ability to sell on *Walmart.com* aside from taking down the
13 reported listings.

14 87. Despite Plaintiff's DMCA takedowns Walmart allowed the Joybuy
15 Defendants to re-post identical or substantially similar listings for their infringing
16 goods, leading to the advertisement and sale of the aforementioned second round
17 of infringing goods.

18 88. Sadly, the Joybuy Defendants are not the only infringers of Plaintiff's
19 work to sell infringing goods on *Walmart.com*; in fact, the issue is rampant, with at
20 least eight different storefronts on *Walmart.com* selling copies of seemingly the
21 exact same infringing tapestries and pillows as sold by the Joybuy Defendants.

22 89. In or around January 2022, Plaintiff, through her counsel, sent cease
23 and demand letters to eight different sellers of infringing goods on *Walmart.com*
24 (including the letter to Joybuy America).

25 90. Two of the recipients of these letters responded back that they had
26 never sold any products on *Walmart.com* and knew nothing of the matters
27 discussed in the letter, and were deeply alarmed by an apparent theft of their
28 corporate identity.

1 91. At least two different listings for infringing goods, identified on
2 *Walmart.com* as sold by Felipe Reyes, LLC, and Rosie 761, LLC were in fact sold
3 by unknown infringers who stole the identities of these companies (the “Doe
4 Infringers”).

5 92. The listings and products sold by the Doe Infringers appear *identical*
6 to those of the Joybuy Defendants.

7 93. Plaintiff, through her counsel, notified Defendant Walmart of these
8 facts in early 2022, and requested that they assist in her investigation of the Doe
9 Infringers who used their website to sell infringing goods while hiding their
10 identities.

11 94. The affected individuals and companies also notified Defendant
12 Walmart of the theft of their corporate identities by users of their site and requested
13 that they assist in Plaintiff’s investigation of the Doe Infringers and provide the
14 documents and information necessary to clear their name.

15 95. These individuals and companies are willing to provide sworn
16 declarations confirming this identity theft and their requests to Defendant Walmart.

17 96. Defendant Walmart refused to assist in any such investigation.

18 97. In fact, Defendant Walmart refused to give *any* information relating
19 to the identity of the Doe Infringers.

20 98. All attempts by Plaintiff to obtain information relating to the identities
21 of the Doe Infringers has been met with a wall of silence by Defendant Walmart,
22 and a refusal to provide any information absent a lawsuit.

23 99. Even after being repeatedly made aware of the presence of rampant
24 infringement, identity theft, corporate impersonation, and possible fraud on
25 *Walmart.com*, Defendant Walmart has taken every step possible to stonewall
26 Plaintiff’s investigations into these matters.

27 100. To this day Defendant Walmart refuses to provide the information
28 necessary for Plaintiff to identify the Doe Infringers and protect her rights under

1 statute.

2 **COUNT ONE:**

3 **COPYRIGHT INFRINGEMENT**

4 **(For Copyright Infringement Against All Defendants)**

5 101. Plaintiff hereby realleges and incorporates by reference herein each
6 and every allegation in the preceding paragraphs as though fully set forth herein.

7 102. Plaintiff is informed and believes, and thereon alleges, that
8 Defendants infringed Plaintiff's copyright by creating, making and/or developing
9 directly infringing and/or derivative works from the Pacific Ocean Artwork and by
10 producing, distributing and/or selling the First Infringing Pacific Ocean Goods and
11 Second Infringing Pacific Ocean Goods.

12 103. Due to Defendants' acts of infringement, Plaintiff has suffered
13 substantial damages to her business in an amount to be established at trial.

14 104. Due to Defendants' acts of infringement, Plaintiff has suffered general
15 and special damages in an amount to be established at trial.

16 105. Due to Defendants' acts of copyright infringement as alleged herein,
17 Defendants have obtained direct and indirect profits Defendants would not
18 otherwise have realized but for Defendants' infringement of the Pacific Ocean
19 Artwork. As such, Plaintiff is entitled to disgorgement of Defendants' profits
20 directly and indirectly attributable to Defendants' infringement of the Pacific
21 Ocean Artwork in an amount to be established at trial.

22 106. Plaintiff is informed and believes and thereon alleges that Defendants
23 have imported, manufactured, cause to be manufactured and/or sold the First
24 Infringing Pacific Ocean Goods and Second Infringing Pacific Ocean Goods.

25 107. Upon information and belief, Defendants also performed such
26 activities being fully aware of Plaintiff's superior rights to the Pacific Ocean
27 Artwork. Therefore, Defendants' acts of copyright infringement as alleged above
28 were, and continue to be, willful, intentional and malicious, subjecting Defendants

1 to liability for statutory damages under Section 504(c)(2) of the Copyright Act in
 2 the sum of up to one hundred fifty thousand dollars (\$150,000) per infringement.
 3 Further, Defendants, and each of their willful and intentional misappropriation
 4 and/or infringements of Plaintiff's copyrighted Pacific Ocean Artwork render
 5 Defendants liable for statutory damages as described herein. Within the time
 6 permitted by law, Plaintiff will make her election between actual damages and
 7 statutory damages. Plaintiff is also entitled to preliminary and permanent injunctive
 8 relief.

9 **COUNT TWO**

10 **CONTRIBUTORY COPY RIGHT INFRINGEMENT**

11 **(For Vicarious Copyright Infringement**

12 **Against All Defendants)**

13 108. Plaintiff hereby realleges and incorporates by reference herein each
 14 and every allegation in the preceding paragraphs as though fully set forth herein.

15 109. Plaintiff is informed and believes and thereon alleges that Defendants
 16 had the ability to control their vendors who engaged in direct copyright
 17 infringement. Defendants had the right to terminate its relationship with its vendors
 18 for any reason whatsoever and through that right had the ability to control the
 19 activities of its vendors.

20 110. In addition, Defendants promoted their vendors' products and were in
 21 a position to police them. Defendants had discretion to end their contracts with
 22 their vendors and require the vendors to abide by, observe and obey Defendants'
 23 terms that no goods sold to the Defendants should contain copyright infringement
 24 of Plaintiff's Artworks.

25 111. Defendants financially benefited from their vendors' sales. The
 26 Joybuy Defendants would purchase the goods from their vendors at a cheap price,
 27 repackage them and sell them for a much higher, but still bargain price to
 28 customers for a profit.

117. Defendants' vendors directly infringed on Plaintiff's Pacific Ocean Artwork by knowingly creating, purchasing and selling the First Infringing Pacific Ocean Goods and Second Infringing Pacific Ocean Goods.

118. Defendants had knowledge of their vendors' infringing conduct. The JoyBuy Defendants tracked, or at least had the ability to track, the vendor from which their products were purchased. Defendant Walmart had knowledge of the JoyBuy Defendants' infringement. Defendant Walmart tracked, or at least had the ability to track, the JoyBuy Defendants' infringing conduct.

119. Defendants induced, caused or materially contributed to the infringing conduct.

120. Therefore, Defendants' acts of contributory copyright infringement as alleged above were, and continue to be, willful, intentional, and malicious, subjecting Defendants to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per infringement. Further, Defendants' willful and intentional misappropriation and/or infringement of Plaintiff's copyrighted Pacific Ocean Artwork renders Defendants liable for statutory damages as described herein. Within the time permitted by law, Plaintiff will make her election between actual damages and statutory damages. Plaintiff is also entitled to preliminary and permanent injunctive relief.

COUNT FOUR:

COPYRIGHT INFRINGEMENT

(For Copyright Infringement Against All Defendants)

121. Plaintiff hereby realleges and incorporates by reference herein each and every allegation in the preceding paragraphs as though fully set forth herein.

122. Plaintiff is informed and believes, and thereon alleges, that Defendants infringed Plaintiff's copyright by creating, making and/or developing directly infringing and/or derivative works from the Happy Place Artwork and by

1 producing, distributing and/or selling the First Infringing Happy Place Goods and
2 Second Infringing Happy Place Goods.

3 123. Due to Defendants' acts of infringement, Plaintiff has suffered
4 substantial damages to her business in an amount to be established at trial.

5 124. Due to Defendants' acts of infringement, Plaintiff has suffered general
6 and special damages in an amount to be established at trial.

7 125. Due to Defendants' acts of copyright infringement as alleged herein,
8 Defendants have obtained direct and indirect profits Defendants would not
9 otherwise have realized but for Defendants' infringement of the Happy Place
10 Artwork. As such, Plaintiff is entitled to disgorgement of Defendants' profits
11 directly and indirectly attributable to Defendants' infringement of the Happy Place
12 Artwork in an amount to be established at trial.

13 126. Plaintiff is informed and believes and thereon alleges that Defendants
14 have imported, manufactured, caused to be manufactured and/or sold the First
15 Infringing Happy Place Goods and Second Infringing Happy Place Goods.

16 127. Upon information and belief, Defendants also began such activities
17 although Defendants were fully aware of Plaintiff's superior rights to the Happy
18 Place Artwork. Therefore, Defendants' acts of copyright infringement as alleged
19 above were, and continue to be, willful, intentional, and malicious, subjecting
20 Defendants to liability for statutory damages under Section 504(c)(2) of the
21 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000)
22 per infringement. Further, Defendants' willful and intentional misappropriation
23 and/or infringement of Plaintiff's copyrighted Happy Place Artwork renders
24 Defendants liable for statutory damages as described herein. Within the time
25 permitted by law, Plaintiff will make her election between actual damages and
26 statutory damages. Plaintiff is also entitled to preliminary and permanent injunctive
27 relief.

28 **COUNT FIVE:**

VICARIOUS COPYRIGHT INFRINGEMENT

(For Vicarious Copyright Infringement

Against All Defendants)

128. Plaintiff hereby realleges and incorporates by reference herein each and every allegation in the preceding paragraphs as though fully set forth herein.

129. Plaintiff is informed and believes and thereon alleges that Defendants had the ability to control their vendors who engaged in direct copyright infringement. Defendants had the right to terminate their relationship with their vendors for any reason whatsoever and through that right had the ability to control the activities of their vendors.

130. In addition, Defendants promoted their vendors' products and were in a position to police them. Defendants had discretion to end their contracts with their vendors and require the vendors to abide by, observe and obey Defendants' terms that no goods sold to the Defendants should contain copyright infringement of Plaintiff's Artworks.

131. Defendants financially benefited from their vendors' sales. The Joybuy Defendants would purchase the goods from their vendors at a cheap price, repackage them and sell them for a much higher, but still bargain price to customers for a profit.

132. The Defendant Walmart was in a position to police the JoyBuy Defendants and had the discretion to end their contracts with the JoyBuy Defendants and to require them to abide by, observe and obey Walmart's terms that no goods on *Walmart.com* should contain copyright infringement of Plaintiff's Artworks.

133. The Defendant Walmart chose inaction because some of the JoyBuy Defendants' ill-gotten proceeds were going to Walmart.

139. Defendants induced, caused or materially contributed to the infringing conduct.

140. Therefore, Defendants' acts of contributory copyright infringement as alleged above were, and continue to be, willful, intentional, and malicious, subjecting Defendants to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per infringement. Further, Defendants' willful and intentional misappropriation and/or infringement of Plaintiff's copyrighted Happy Place Artwork renders Defendants liable for statutory damages as described herein. Within the time permitted by law, Plaintiff will make her election between actual damages and statutory damages. Plaintiff is also entitled to preliminary and permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully demands the following relief against the Defendants with respect to each claim for relief:

With respect to all Defendants, and each of them, as to Counts One to Four:

1. That Defendants, Defendants' agents and servants be enjoined from selling the Infringing Pacific Ocean Goods and Infringing Happy Place Goods, or otherwise infringing Plaintiff's copyright in the Pacific Ocean Artwork and Happy Place Artwork;
2. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff in connection with Defendants' infringement of the Pacific Ocean Artwork and Happy Place Artwork, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. § 101 et seq.;
3. That Plaintiff be awarded her attorneys' fees as available under the Copyright Act 17 U.S.C. § 101 et seq.;

1 4. Directing such other relief as the Court may deem appropriate to
2 prevent Defendants from participating in these or other copyright
3 infringements.

4 For such other and further relief as the Court may deem just and proper.

5
6 Dated: April 8, 2022

NOVIAN & NOVIAN LLP

7 By: /s/ Farhad Novian

8 FARHAD NOVIAN, State Bar No. 118129

9 ALEXANDER KANDEL, State Bar No. 306176

JARED C. XU, State Bar No. 314646

10 Attorneys for Plaintiff LEAH FLORES, an
11 individual
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DEMAND FOR JURY TRIAL

A jury trial is demanded pursuant to Fed. R. Civ. P. 38.

Dated: April 8, 2022

NOVIAN & NOVIAN LLP

By: /s/ Farhad Novian

FARHAD NOVIAN, State Bar No. 118129

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